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RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

ADR

C08-02993 MEJ

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International, Inc.; SuperShuttle Franchise
Corporation, and Veolia Transportation
Services, Inc.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DISTRICT

ROOSEVELT KAIRY, LARRY BROWN,
WAYNE DICKSON, AND DRAKE OSMUN,
on behalf of themselves, all other similarly
situated, and the general public,,

Plaintiffs,

vs.

SUPERSHUTTLE INTERNATIONAL, INC.;
SUPERSHUTTLE FRANCHISE
CORPORATION, AND VEOLIA
TRANSPORTATION SERVICES, INC., dba
SUPERSHUTTLE, AND DOES 1 through 20,
inclusive,

Defendants.

Case No.:

**DECLARATION OF ANDRE Y. BATES
IN SUPPORT OF NOTICE OF
REMOVAL**

[Filed Concurrently with Notice of Removal
of Defendant SuperShuttle International,
Inc. and Declaration of Judy Roberson in
Support of Removal]

FILE BY FAX

1 I, Andre Y. Bates, declare as follows:

2 1. I am an attorney licensed to practice law in the State of California and admitted to
3 practice in the United States District Court for the Northern District of California. I am an
4 associate with the law firm of Marron & Associates, counsel of record for defendants SuperShuttle
5 International, Inc., SuperShuttle Franchise Corporation and Veolia Transportation Services, Inc.
6 (collectively "Defendants") in this action. By virtue of my representation of Defendants, I have
7 have personal knowledge of the facts set forth below and could and would competently testify to
8 those facts if called to do so.
9

10 2. I have reviewed the complaint in this case as well as the declaration of Judy
11 Robertson submitted in support of SuperShuttle International's Notice of Removal.

12 3. I have calculated Plaintiffs' alleged damages based on the allegations in the
13 complaint for the Second and Seventh causes of action. SuperShuttle International specifically
14 denies that Plaintiff is entitled to any relief whatsoever, these calculations are made solely for the
15 purposes of determining compliance with the amount in controversy requirement contained in 28
16 U.S.C. §1332 (d)(2).
17

18 4. I have generally calculated the alleged statutory damages for Plaintiffs for the
19 Second and Seventh causes of action for the period of May 8, 2004 to the present. These
20 calculations are based on Plaintiffs' position that the four-year statute of limitations under
21 California Business and Professions Code Section 17200 et al. is applicable to their claims for
22 alleged violations of the California Labor Code. SuperShuttle International specifically denies
23 that the four year statute of limitations applies to these alleged violations.
24

25 5. Plaintiffs' Second Cause of Action for Unlawful Deductions from Wages pursuant
26 to California Labor Code Sections 221 and 223 provides for statutory penalties to be calculated as
27

1 follows pursuant to Labor Code Section 225.5: \$100 penalty for initial violation times total
 2 number of putative class members (732), \$73,200; plus \$200 for each subsequent violation per pay
 3 period, times the number of assumed pay periods per year ,times the number of franchisees per
 4 year (for 2004: \$200 x 228 drivers x 14 pay periods; for 2005: \$200 x 230 drivers x 24 pay
 5 periods; for 2006: \$200 x 317 drivers x 24 pay periods; for 2007: \$200 x 330 drivers x 24 pay
 6 periods; for 2008: \$200 x 328 drivers x 9 pay periods) for a total of \$5,390,400.

8 6. Plaintiffs' Seventh Cause of Action for Failure to Furnish Accurate Wage
 9 Statements pursuant to California Labor Code Sections 226 provides for statutory penalties of
 10 "fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars
 11 (\$100) per employee for each violation in a subsequent pay period, not exceeding an aggregate
 12 penalty of four thousand dollars (\$4,000)." Damages under this section would be between
 13 \$2,928,000 and \$2,670,350, calculated as follows: it is assumed that every putative class member
 14 is entitled to the maximum penalty of \$4,000, the total amount of damages under this section
 15 would be \$2,928,000. The lower figure of \$2,670,350 is arrived at by taking the number of
 16 drivers each year, multiplying that number by \$50 (for 2004: \$50 x 228 drivers; for 2005: \$50 x
 17 230 drivers; for 2006: \$50 x 317 drivers; for 2007: \$50 x 330 drivers; for 2008: \$50 x 328 drivers)
 18 for a total of \$71,150, that amount is added to the amount of \$100 x the number of drivers each
 19 year x the remaining number of pay periods (for 2004: \$100 x 228 drivers x 13 pay periods; for
 20 2005: \$100 x 230 drivers x 23 pay periods; for 2006: \$100 x 317 drivers x 23 pay periods; for
 21 2007: \$100 x 330 drivers x 23 pay periods; for 2008: \$100 x 328 drivers x 8 pay periods), totaling
 22 \$2.575,700.

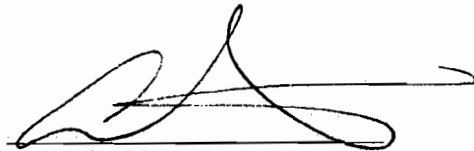
25 7. The statutory damages sought by Plaintiffs in the Second and Seventh Causes of
 26 action alone total between \$8,108,750 and \$8,366,400. These calculations above do not take into
 27

1 consideration any of the other damages sought by Plaintiffs in their eight remaining causes of
2 action and no calculation has been attempted in light of the fact that the jurisdictional minimum
3 amount in controversy is satisfied by the foregoing.

4 I declare, under penalty of perjury under the laws of the United States of America that the
5 foregoing is true and correct.

6 Executed this 17th day of June, 2008 in Long Beach, California.

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Andre Y. Bates